THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.22788 of 1996
Date: 13-06-2007

Between:
Allampalli Abbayi and others

Petitioners

And

The District Collector, East Godavari,
at Kakinada and others

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.22788 of 1996

ORDER:

1. This writ petition has been instituted calling in question the notice issued on 10-10-1996 by the Mandal Revenue Officer, Karapa, East Godavari District, in terms of the provisions contained in Sub Section 2 of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 calling upon the writ petitioners to show cause as to why they should not be summarily evicted from the lands which were originally assigned to them.

2. It is not in dispute that over an extent of Ac.41.60 cents of land situate in Survey Nos.526 to 533 of Karapa in East Godvari District, the petitioners have been granted pattas by assigning them small extents of land. Based upon the report submitted by the Mandal Revenue Officer on 26-07-1993, the Revenue Divisional Officer passed orders on 30-07-1993 permitting all of them to improve upon the land by digging fishery tanks and cultivate pisci culture therein subject to the conditions incorporated therein. It is now alleged against the petitioners that contrary to the conditions incorporated in the D-Form Patta granted in favour of the individual writ petitioners, they have alienated the lands in question by entering into a lease for a period of 99 years with a third party, namely, M/s. Sri Venkateswara Aqua Culture. Therefore, the impugned show cause notice draws inspiration from the fact

that the petitioners have violated the conditions of grant prohibiting them from alienating or transferring the lands in question.

3. It is relevant to notice that the writ petitioners are all drawn from the poorer sections of the society and they are all members belonging to the scheduled castes. Therefore, this court while entertaining the writ petition on 28-10-1996 granted an order directing the respondents not to evict the petitioners from out of the land assigned to them. In view of the pendency of this writ petition for the past over a decade, I consider it appropriate to dispose of the same in the following manner:

> The petitioners be provided an opportunity to represent the entire issue by submitting a detailed representation to the impugned show cause notice before the Mandal Revenue Officer. The Mandal Revenue Officer, if necessary, may seek the assistance by way of a report of the Assistant Director of Fisheries , Government of Andhra Pradesh, Kakinada for ascertaining as to whether the writ petitioners are capable of effectively farming the lands by way of Pisci culture entirely on their own or not. If the writ petitioners are capable of carrying on the Pisci culture on their own based on the principles of mutual cooperation by way of sharing the income and expenditure proportionately amongst themselves, it would only be appropriate for the Mandal Revenue Officer to permit and allow the writ petitioners to continue to be in possession of the lands assigned in their favour, instead of cancelling the grant itself. If the writ petitioners are capable of carrying on the Pisci culture on their own they may be provided an opportunity to

retrieve themselves from out of the obligations arising out of the alleged lease entered into by them with M/s. Sri Venkateswara Aqua culture or any other such society, firm or individual. If the writ petitioners produce necessary and adequate proof of their retrieving themselves from out of the obligations of the agreement entered into by them with third parties, as is alleged in the counter affidavit filed by the Mandal Revenue Officer, it is only appropriate that they be provided an opportunity to improve their lot by not cancelling the grant in their favour.

4. It is well to remember that in fact, the State as a policy taken the obligation to provide for and make provision for securing the right to work as also to promote the welfare by securing effectively a social order in which justice, social, economic and political will prevail in the national life. The State by choice, had to endeavour for securing adequate means of livelihood to it's citizens and more importantly that the ownership and control of the material resources of the community are so distributed as best to subserve the common good of the society. The State is also required to promote with special care the economic interests of the weaker sections of the people and in particular of the Scheduled Castes and Scheduled Tribes. These value based principles enshrined in Part IV of our Constitution, if were to take a meaningful form, every measure at every stage of the State's action must reflect them and direct itself towards that end. In this view of the matter, I issue the above directions to the Mandal Revenue Officer. Till the exercise is completed in all respects, no attempt shall be made to evict the petitioners, from out of the lands assigned in their favour.

5. With this, the writ petition is disposed of. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

13-06-2007
Stp